# Acts and Laws

Paſſed by the Great and General Court or Aſſembly of His Majeſty's Province of the *Maſſachuſetts-Bay* in *New-England*, begun and Held at *Boſton* upon Wedneſday the Thirty-firſt Day of *May* 1732, and continued by Adjournment unto Wedneſday the firſt Day of *November* following.

## CHAP. V.

## An Act for preventing unneceſſary expence of Time in the Attendance of Petit-Jurors, on the ſeveral Courts of Juſtice, and for the enlarging their Fees, and the Allowance to Witneſſes in Civil Cauſes.

Preamble.

WHEREAS the Fee already allowed by Law to the Petit Jury for each Verdict is Thirteen Shillings, & the Allowance to Witneſſes in Civil Cauſes for their Attendance, Travel and Expences is but Two Shillings per Diem, which Allowances are ſo ſmall that the ſame will by no means defray their Charges; and inaſmuch as Jurors are oftentimes detain'd at the Tryal and Hearing of Caſes which do not come to them by reaſon of the Agreement of the Parties, Abatement of the Writ, or that the Plaintiff or Appellant for ſome Failure, diſcontinues his Suit, or becomes Non-Suit, and frequently (eſpecially in the Inferiour Courts of Common Pleas) Judgment is entred up againſt the Defendents by Default; by means whereof great part of the Juries Time is unneceſſarily taken up, for which they have no Allowance by Law, and yet are obliged to give their Attendance during the whole Time of the Courts Sitting, until the Actions are gone through, and finiſh'd:

Wherefore,

**Be it Enacted by his Excellency the Governour, Council and Repreſentatives in General Court Aſſembled, and by the Authority of the ſame,** That the Fee or Allowance to be paid to the Petit Jury henceforward *Nineteen Shillings* for each Verdict, as well in Criminal as in Civil Cauſes, whereof *Two Shillings*

Fee for Petit Jurors.

and *Six Pence* shall be to the Fore-man, and *One Shilling* and *Six Pence* a Piece to the other Jurors: And that in the Inferiour Court of Common Pleas, and Court of General Sessions of the Peace to be held in the County of *Suffolk*, the Petit Jurors shall not be obliged to give their Attendance, before the Second *Tuesday* of the Courts Sitting, and in the Counties of *Essex*, *Middlesex*, *Hampshire*, *Worcester*, *Plymouth*, *Barnstable*, *Bristol*, *York* & *Dukes-County*, in the Inferiour Court of Common Pleas, and Court of General Sessions of the Peace, to be there held, the Petit Jurors shall not be obliged to give their Attendance till the Second Day of the Courts Sitting; To the end that the said Court may proceed upon & determine all Pleas in Bar & Abatement of Writs, and all such Actions as will not be Committed to the Jury, so that their Time and Attendance be not unnecessarily taken up and delayed: And the Clerks of the respective Courts aforesaid are hereby Ordered and Directed in making out Writs of *Venire facias*, for the Choice of Petit Jurors, to give directions accordingly.

Time of Jurors Attendance at the respective Courts, &c.

**And be it further Enacted by the Authority aforesaid,** That no Action be Entred after the first Day of the Courts Sitting; and that all Pleas in Bar and Abatement arising on the Writ be either Enter'd thereon, or filed with the Clerk of the Court before the Jury be Impanel'd; and that if the Defendant in any Action suffer a Default and shall afterwards come into Court and move for a Tryal of his Case, and be admitted thereto, and make Pleas in Bar or Abatement of the Writ, before he be allowed to make such Pleas, he shall pay to the Clerk for the use of the Jurors attending such Court *Twelve Shillings*, to be equally divided among them.

No Action to be Entred after the first day of Pleas in Bar & Abatement, when to be made.

Pleas in Bar and Abatement after Default.

**And be it further Enacted by the Authority aforesaid,** That Witnesses in Civil Causes shall be allowed and paid by the Party Serving them with *Subpœna*, the Sum of *Three Shillings per Diem* each, which shall be accounted due Satisfaction to any Witness for his Travel, Expences and Attendance, accounting *Ten Miles* Travel to a Day.

Allowance to Witnesses.

This Act to continue in force for the space of Five Years from the Publication thereof.

Limitation.

## CHAP. VI.

# An Act for the Relief of poor Prisoners for Debt.

Preamble.

WHEREAS *by the Law of this Province no Provision is made for the Support of Prisoners for Debt, whereby such Prisoners may greatly suffer in Goal.*

For Remedy whereof,

**Be it Enacted by his Excellency the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same,** That when any Person stands committed for Debt or Damages upon Execution, and shall complain that he or she hath not Estate sufficient to Support him or her self in Prison, the Goaler or Keeper of such Prison, shall thereupon (at the Charge of the Prisoner) be obliged to apply to some one of His Majesty's Justices of the Peace, for a Notification to be served on the Creditor

Proceedings upon the Prisoners Desire of a Release.

Creditor or Creditors (if within Twenty Miles) at whose Suit such Prisoner is in Custody, thereby signifying to him or them such Prisoners desire of taking the Priviledge and Benefit allowed in and by this Act, and of the intended Caption of his or her Oath in Order thereunto; after which the Goaler shall be obliged without any unnecessary delay, to carry such Prisoner before said Justice, who shall (at and upon the Desire & Request of such Prisoner) Administer to him or her the following Oath, *viz.*

Prisoners Oath

I A. B. *do upon my Oath, Solemnly profess and declare before Almighty* GOD, *That I have not any Estate Real or Personal in Possession, Reversion or Remainder, sufficient to Support my Self in Prison, or to pay Prison Charges, and that I have not directly or indirectly, Sold, Leased or otherwise Conveyed or Disposed of to, or Intrusted any Person or Persons whomsoever with all or any Part of Estate Real or Personal, whereof I have been the lawful Owner or Possessor, with any Intent or Design to Secure the same, or to Receive or expect any Profit or Advantage therefrom, or Done, Caused or Suffered to be done, any thing else whatsoever, whereby any of my Creditors may be Defrauded.*

Prisoners to be set to Work,

Which said Oath being taken by such Prisoner, the Goaler or Keeper is hereby directed and Impowred to set him or her to Work in the Prison or Dependencys thereof, and out of his or her Earnings to receive *Six Shillings per* Week, for his or her Diet, for the space of two Months, and the Remainder thereof (if any there be) for the Use of such Prisoner,

**And be it further Enacted by the Authority aforesaid,** That if the Creditor or Creditors live so far distant, as not to be Notified as aforesaid, then the Justice before whom such Oath shall be taken, shall within Ten Days after the Caption of the same, give Certificate thereof in Writing, under his Hand and Seal, to such Prisoner, to be served on such Creditor or Creditors by his or her Executors, Administrators, Agent or Attorney, or to be left at the Place of the usual Abode of such Person or Persons at whose Suit such Prisoner stands Charged or Imprisoned.

Distant Creditor to be Certified.

**And be it further Enacted by the Authority aforesaid,** That in Case any such Prisoner shall be Convicted of having Sold, Leased or otherwise Conveyed or Disposed of, or Intrusted his or her Estate, or any Part thereof, directly or indirectly, contrary to the foregoing Oath, such Prisoner shall not only be liable to the Pains and Penalties mention'd in the Law for Punishing of Willful Perjury, but shall receive no Benefit from the said Oath, any thing in this Act notwithstanding.

Penalty for a false Oath,

*Provided always*, **and be it further Enacted by the Authority aforesaid,** That when such Prisoner or Prisoners for Debt shall have taken the Oath, as before prescribed, and shall have duly Certified his or her Creditors thereof, by serving them or their Executors, Administrators, Agents or Attorney with such Certificate, or leaving the same at their usual Place of Abode, if then such Creditors, or their Executors, Administrators, Agent or Attorney shall not within the space of Fifty Days, from and after their being so Certified make any Discovery of any Estate of such Prisoner or Prisoners, nor disprove the said Oath, that then the said Creditors shall at their own Cost and Charge, allow and pay Weekly to the said Prisoner or Prisoners

Prisoner to be discharged or maintain'd by the Creditor in Case

*Five*

*Five Shillings per* Week for each Priſoner, towards his, her or their Support while he, ſhe or they are detained in Priſon, and upon Non-payment of the ſame Weekly, or Refuſing to give ſufficient Security therefor to the Sheriff of the County, ſuch Priſoner or Priſoners ſhall be ſet at Liberty.

Proviſo that the Priſoners Eſtate ſhall be liable to Execution.

*Provided alſo*, **And be it further Enacted by the Authority aforeſaid**, That notwithſtanding the Diſcharge of the Perſon of ſuch Priſoner as aforeſaid, upon taking the Oath aforeſaid, all and every Judgment had and given againſt him or her, ſhall be and remain good and effectual in Law, to all Intents and Purpoſes, againſt the Lands, Tenements, Goods and Chattels that may then or at any Time afterwards belong to ſuch Priſoner diſcharged as aforeſaid. And it ſhall and may be lawful to and for ſuch Creditor of ſuch Priſoner diſcharged as aforeſaid, his Executors, Adminiſtrators, Agent or Attorney to take out any new Execution, to which ſhall be added by the Clerk of the Court from whence the Execution iſſues, the Charge (if any there be) that the Creditors have been at, for the Priſoners Support at *Five Shillings* as aforeſaid, ſuch Creditor or Creditors firſt making Oath before the Clerk to the truth of what he, ſhe or they ſhall Charge to ſaid Priſoner, for his or her Support, againſt the Lands, Tenements, Hereditaments, Goods and Chattels of ſuch Priſoner (his or her Wearing Apparel, Bedding for him and his or her Family, and Tools neceſſary for his or her Trade and Occupation, only excepted) for the ſatisfaction of his or their Debt in ſuch ſort and manner, as he might have done if the Perſon of ſuch Priſoner had never been taken in Execution.

Charges for ſupporting the Priſoner to be added.

Apparel Bedding & Tools for his Occupation excepted.

Remedy againſt a falſe Charge for Support.

**And be it further Enacted by the Authority aforeſaid**, That if the Debtor ſhall be aggrieved with the Charge added by the Clerk to ſaid new Execution, ſuch Debtor ſhall and may Sue for and Recover of the Creditor or Creditors before any Court proper to try the ſame, Four-fold the Sum which hath been levyed upon him or her the ſaid Priſoner, and ſhall be made to Appear to ſuch Court to be unjuſtly or falſly Charged by the Creditor or Creditors for his or her Support as aforeſaid.

Remedy againſt the Goalers refuſing to diſcharge the Priſoner

*Provided alſo*, That if the Goaler or Keeper of any Priſon, ſhall Refuſe or Delay to Diſcharge and ſet at Liberty any Priſoner, contrary to the true Intent and meaning of this Act, every ſuch Goaler or Keeper ſhall forfeit and pay to ſuch Priſoner detained contrary to this Act, the Sum for which he or ſhe ſtands committed, to be recovered by Action of Debt, in any Court of Record proper to try the ſame.

Priſoner to ſatisfy his Debt by Service.

*Provided nevertheleſs*, That if any Creditor ſhall Deſire to have his or her Debtor (being able of Body, and not having a Husband, Wife or Family) to Labour for Satisfaction of ſuch Debt by Service, the Juſtices of the Court of General Seſſions of the Peace within the ſame County, ſhall direct and order the Term for which ſuch Debtor ſhall Serve, and the Creditor is hereby directed and impowered to retain him or her in Service during ſuch Term.

Proviſo.

*Provided alſo*, That this Act ſhall not extend to any Perſon or Perſons in Execution for any Fine on him, her or them impoſed.

Limitation.

This Act to continue and be in Force for the ſpace of Three Years from the Publication thereof, and from thence to the End of the then next Seſſion of the General Court, and no longer.

CHAP.

## CHAP. VII.

### An Act for the Trial of Capital Offences, and other high Misdemeanors committed in the Island of Nantucket.

Preamble.

WHEREAS *there is no Time appointed by Law for the holding of a Superiour Court of Judicature Court of Assize and General Goal Delivery, in and for the Island of* Nantucket, *so that as occasion has required, a Special Court has been appointed for the Trial of Offenders there, which has proved both expensive and inconvenient, especially when the Justices of the Superiour Court of Judicature, Court of Assize and General Goal Delivery, are obliged to attend such Tryals.*

And whereas *there is annually a Superiour Court of Judicature Court of Assize, and General Goal Delivery holden at* Barnstable, *for the Counties of* Barnstable *and* Dukes-County, *which are the next adjacent Countys, and not very remote from the said Island:*

Capital Offences and high Misdemeanors committed in *Nantucket* to be tried in the County of *Barnstable.*

**Be it therefore Enacted by His Excellency the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same,** That from henceforth all Capital Offences and other high Misdemeanours committed within the said Island of *Nantucket*, and the Dependences thereof, shall be Heard, Tried and Determined at the Superiour Court of Judicature, Court of Assize and General Goal Delivery, to be from Time to Time held at *Barnstable*, for the Counties of *Barnstable* and *Dukes-County*: And the Justices of the said Court shall be, and hereby are fully Authorized and Impowered to proceed to Trial of all such Capital Offences and high Misdemeanours committed within the said Island of *Nantucket*, and the Dependencies thereof, as shall come before them at *Barnstable* aforesaid, give Judgment therein, and award Execution there upon.

Jurors to be sent from *Nantucket.*

**And be it further Enacted by the Authority aforesaid,** That in all Capital Offences or high Misdemeanours committed in the said Island of *Nantucket*, to be Tried at the Superiour Court of Judicature, Court of Assize and General Goal Delivery, to be holden at *Barnstable* as aforesaid, upon Notice thereof given to the Clerk of the said Court, he shall, and is hereby Directed and Impowered to Issue out Writts of *Venire Facias* for the Choice of six Grand-Jurors and four Petit-Jurors, belonging to the said Island of *Nantucket*, and Qualified as in his Majesty's Royal CHARTER is directed, to serve at the said Superiour Court of Judicature, Court of Assize and General Goal Delivery, to be holden at *Barnstable* as aforesaid, upon the Trial of any Capital Offences or high Misdemeanours committed in the said Island of *Nantucket.*

## CHAP. VIII.

### An Act in further addition to and explanation of an Act in addition to an Act for erecting of a Powder-House in Boston,

Preamble.

WHEREAS *the Forfeitures for keeping a greater Quantity of Gun-Powder than is allowed by Law, in any of the Houses or Warehouses in the Town of* Boston, *as provided in an Act*

*made and passed in the Second Year of his late Majesty's Reign, Entitled*, An Act in Addition to an Act for Erecting a Powder-House in *Boston, are found not sufficient to prevent the Breaches of that Act*;

**Be it therefore Enacted by His Excellency the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same,** That there shall be a further Sum of *Five Pounds* Penalty, making in the whole *Ten Pounds*, for every half Barrel of Powder, and so *pro rato*, kept in any House or Warehouse contrary to that Act.

Fine for keeping too much Gun. Powder.

*And whereas some Doubts have arisen about the Forfeiture of Powder when found and informed against*;

**Be it further Declared by the Authority aforesaid**, That when any Quantity of Powder is found to be in any House or Warehouse other than by Law is permitted, all such Powder as well the Quantity allowed, as the Over-plus, shall upon Conviction be declared Forfeited, and if any Person Selling or Retailing Powder, shall lodge any Powder in any of his Out-Houses or Buildings, in his Yard, Garden or any of the Dependencies thereof, more than by that Law he may, the whole Quantity shall be Forfeited as aforesaid.

The whole Powder to be forfeited when it exceeds what is allowed by Law.

The said Forfeitures to be recovered in manner as is provided in the aforesaid Act.

## CHAP. IX.

**An Act for erecting all the Lands on the Easterly side of the River Merrimack, belonging to the Town of Dunstable into a Township, by the Name of Nottingham.**

Preamble.

WHEREAS *the Inhabitants of the Town of* Dunstable, *on the Easterly side of the River* Merrimack, *labour under great difficulties in their Attendance on the publick Worship of* GOD, *and thereupon have Addressed this Court, that they may be set off a seperate and distinct Township, that they may be vested with all the Powers and Privileges of a Town*;

**Be it therefore Enacted by His Excellency the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same,** That all the Lands on the Easterly side of the River *Merrimack* belonging to the Town of *Dunstable*, be and hereby are set off, and constituted a seperate Township by the name of *Nottingham*, and that the Inhabitants of the said Lands be and hereby are accordingly endowed and vested with all Powers, Privileges, Immunities and Advantages which other Towns in this Province by Law have and enjoy; and the Inhabitants of the said Town of *Nottingham* are hereby enjoined and Required, within the space of Three Years from the Publication of this Act, to procure and settle a Learned orthodox Minister of good Conversation, and make Provision for his comfortable and honourable Support.

Land belonging to *Dunstable* on the East side of *Merrimack* River made a Town.

*(The five foregoing Acts were Published, Jan. 6. 1732.)*